

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

ART UNIT: 1647

FRANCO ET AL.

EXAMINER: GAMETT, DANIEL C

APPLICATION NO: 10/817,607

CONFIRMATION NO.: 3765

FILED: APRIL 2, 2004

FOR: POLYNUCLEOTIDE ENCODING A NOVEL HUMAN P2X7 SPLICE

VARIANT, HBMYP2X7v

TRANSMITTED VIA EFS-WEB

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD  
IN GRANTED PATENT 7,344,860 under 1.704(b)

Sir:

The granted patent erroneously lists the patent term adjustment period as 491 days. In fact, the patent term adjustment period should be 547 days, as explained below.

The USPTO ("the Office") made an error in calculating the patent term adjustment for an Information Disclosure Statement submitted on 04/12/2007. This IDS was submitted under 37 C.F.R. 1.97(e)(1), included statement that references were cited from an International Search Report and included Statement under 37 CFR 1.704(d) that the references were being submitted less than 30 days from receipt of report. The Office charged 56 days for the submission of this Information Disclosure Statement, but, in fact, there was no actual delay.

Calculation of Patent Term

The patent term adjustment history from PAIR shows a USPTO Delay of 560 days and Applicants' Delay of 69 days, calculated as follows:

USPTO Delay:

10-17-2006	Mail Restriction Requirement	502 days
03-18-08	Patent Issued	<u>58 days</u>
		560 days

Applicants' Delay :

11-29-2006	Information Disclosure Statement	13 days
04-12-2007	Information Disclosure Statement	<u>56 days</u>
		69 days

Applicants' Delay (Corrected):

11-29-2006	Information Disclosure Statement	13 days
04-12-2008	Information Disclosure Statement	<u>0 days</u>
	Total Applicant Delay	13 days

Using the corrected period of Applicants' delay, the patent term adjustment should be 560 days USPTO delay – 13 days Applicant delay = 547 days patent term adjustment.

Applicant states this patent is not subject to a terminal disclaimer

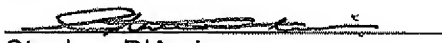
Applicant believes this error is ascribable to the Patent Office and applicant is requesting re-consideration of the patent term adjustment within two months of the date of the issued patent.

Application Fees

Please charge the fee prescribed in 37 C.F.R. § 1.18(e) to Deposit Account No. 19-3880 in the name of Bristol Myers Squibb Company. If any additional fees are required for consideration of this application, please charge them to the same account.

Respectfully submitted,

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Date: 3-13-08